

MEMORANDUM

TO: Board of Environmental Protection

FROM: Judy Gates, Bureau of Land & Water Quality, Augusta

DATE: February 6, 2003

RE: Chapter 315 Assessing and Mitigating Impacts to Existing Scenic and Aesthetic Uses:
Post to Hearing

Statutory and Regulatory Reference: The applicable regulatory framework for this rule is the Natural Resources Protection Act (NRPA) 38 M.R.S.A. § 480-A to 480-Z, and specifically Standard 1 in Section 480-D of the NRPA.

Scope: This rule applies to the alteration of a coastal wetland, great pond, freshwater wetland, fragile mountain area, river, stream or brook in organized portions of the state as defined in 38 M.S.R.A. § 480-B of the Natural Resources Protection Act (NRPA), that requires an individual permit, or is eligible for Tier 2 or Tier 3 review.

Description: The department requests permission to post to public hearing Chapter 315 Assessing and Mitigating Impacts to Existing Scenic and Aesthetic Uses. Standard 1 in Section 480-D of the NRPA states that a permit may not be granted for an activity in, on, over, or adjacent to a protected natural resources when the activity will unreasonably interfere with existing scenic, aesthetic, recreational or navigation uses. Chapter 315 explains State regulatory concerns, defines adverse visual impacts, establishes a procedure for evaluating visual impacts generated from proposed projects, establishes when a visual assessment may be necessary, explains the components of a visual assessment when required, and describes avoidance, mitigation and offset measures that may eliminate or reduce adverse impacts to existing scenic and aesthetic uses. This rule was drafted with input from professionals with training in visual evaluations and documents and staff from other states considering similar issues.

Environmental issues: Although there is currently authority to reach regulatory decisions based on Standard 1, these criteria will assist the Department, the Board and the public in determining whether a project proposed under the NRPA will result in an unreasonable adverse impact to an existing and aesthetic use. Under this rule, three primary visual elements (landscape compatibility, scale contrast, and spatial dominance) would provide the basis for regulatory decision-making.

Department Recommendation: The department recommends the Board post these rule amendments to public hearing on March 20, 2003 at 1:30 P.M.

Estimated Time of Presentation: Approximately 30 minutes.